



The Interaction Between the GDPR Research Exemption and the Development of AI Products and Services

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The GDPR research exemption and the development of AI products and services



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The Issue

1. A company can use your **data without consent for scientific research** (for public interest).
2. The company uses AI to process the data under the cover of **black box**.
3. Data and results are used for new purposes (**without public interest**).



1. Google gets your **health data from the government** to research and develop a medical software\application.
(UK, Italy)

2. Google delivers the app. 😊

But, later.....



1. **Google can use the results (IP and pseudonymized data) to research and develop a smart watch.**
2. Google already has data about you.
3. You are easily **identified and targeted with new Google services.**

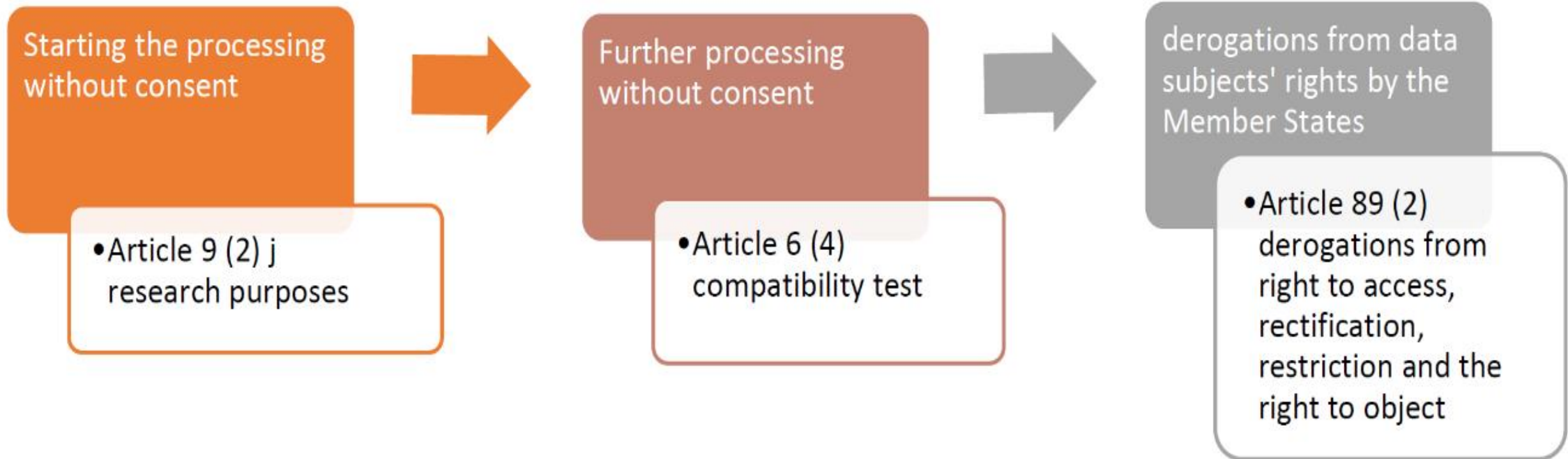
😊 Or 😞 ?

Exceptions and special rules for scientific research in the GDPR



- Broad definition of research
- Further processing
- Processing sensitive data **without consent**
- Exemptions from the new rights (e.g. right to be forgotten)

Processing personal data for research purposes without consent in the GDPR

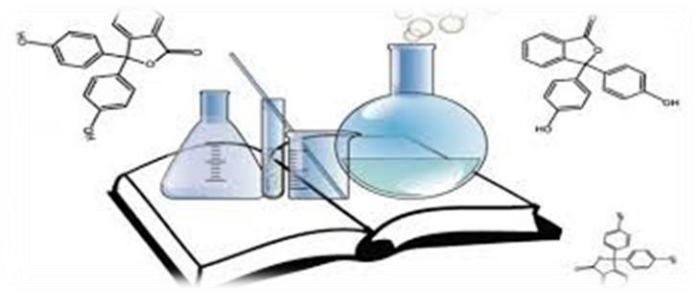


Definition of scientific research in the GDPR

interpreted in a **broad** manner

Both **basic and applied** research
including **privately funded** research

(**Recital 159**) – legally not binding



The problem

There is **no EU law** defining scientific research.

We contacted all the data protection authorities in the EU:
How do they interpret this exemption?

None of them had a clear interpretation of this rule.

FORUM SHOPPING?

Is AI research scientific research?

basic research in computer science

e.g. quantum computation and quantum information theory

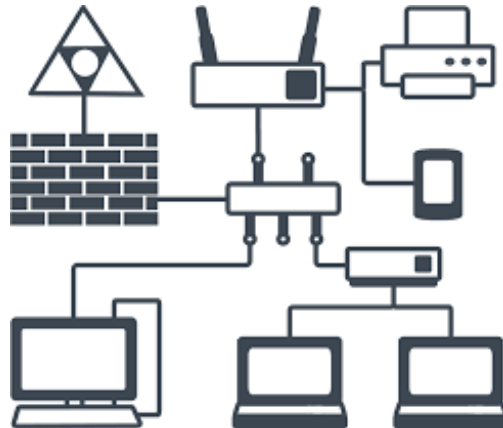
applied research

developing a new operating system or programming language

Is AI research scientific research?

Yes, AI research is part of computer science

It can be both **basic** and **applied** research.



Limits?

Since the Regulation provides this **broad exemption**,

it would be crucial to clarify the **limits and requirements of scientific research and public interest.**

The **line between scientific research and commercial activity is not sharp.**



An example

Your car (Tesla) collects information about your driving skills (e.g., speed, reaction times) to improve the system.

The information and improvement will also be **integrated into new cars.**

LET`S THINK TOGETHER

Is this data processing

1.

**Scientific
research**

OR



2.

Commercial activity

What if....

**Later, Tesla offers you to buy
a safety package?**

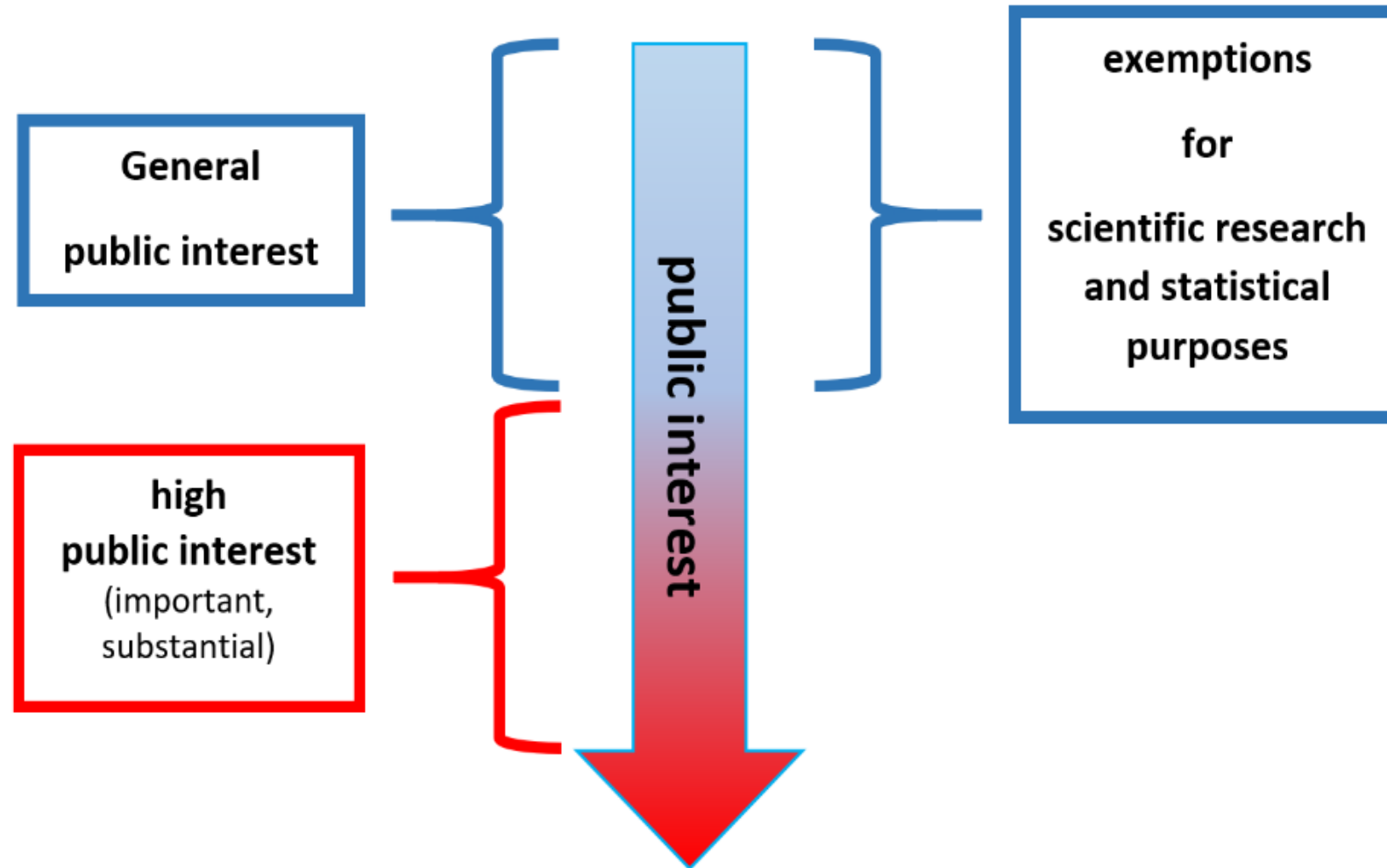
(driving assistance, self
parking)

Issues with AI research

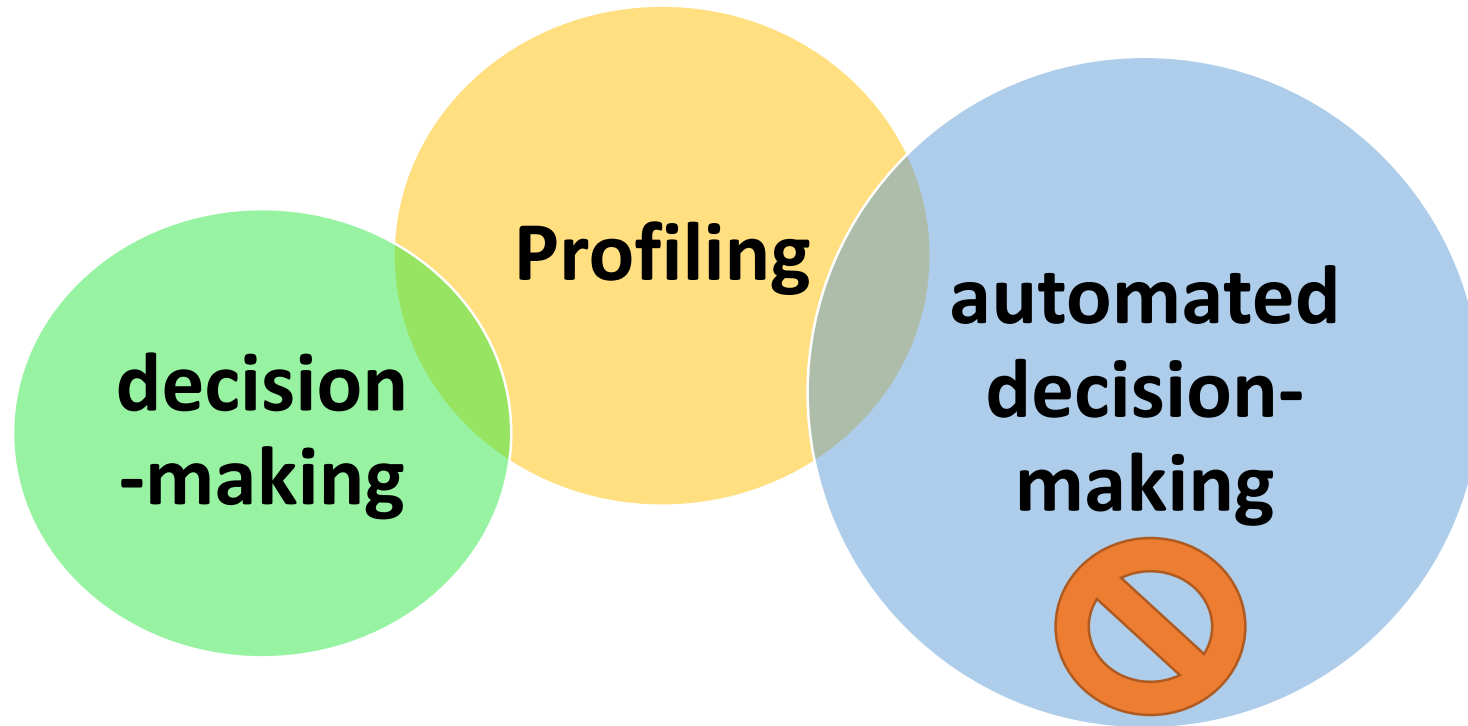


- **‘black box’** - right to explanation
- In many cases, the reason for **funding and permitting research activities is public interest**, which will be hard to demonstrate in a black box situation.
- **regulation, safety, funding, and patentability...**



The connection between public interest and the scientific research exemption in the GDPR



Barriers for AI in the GDPR?



The impact of AI Research on the individual and society

Phase 1.	Phase 2.	Phase 3.
AI Research I. AI Research II. AI Research III.	 commercial product 	Automated-decision
		Decision (Not fully automated)
		No decision, but significantly impacts the people's life (e.g. traffic, safety)
Exemptions for scientific research in the GDPR	E.g., autonomous car software, disease diagnostic tool	

Conclusion, suggestions

1. Define **`scientific research`** on EU level.
2. Processing personal data for **public interest** cannot result in a product which negatively affects the data subjects' rights.

Conclusion, suggestions

1. **the prohibition on automated decision-making does not pose a significant hurdle for AI research, just on the application AI products and services.**
2. **Similar to medical research, stricter regulation and oversight would be necessary.**

Thank you for your attention!

